

_____ Court of Washington, County of _____

_____, Plaintiff	Case No.
vs.	Order Dismissing “Serious Nonfelony” Charge and Directing Referral or Release (ORDSMIN, ORDSMWO, RIVTE, ORRL)
_____, Defendant	Clerk’s Action Required: 4, 7
DOB: _____	

Use this form for when competency restoration treatment was unsuccessful or unlikely to be successful.

Introduction. After notice and a hearing on the defendant’s competency following:

- ☐ the competency evaluation, or
- ☐ restoration efforts by the Department of Social and Health Services (DSHS) or a facility or provider determined by DSHS or under the guidance and control of a professional person,

the court considered:

Findings of Fact and Conclusions of Law:

1. Nature of Charges. The court finds by a preponderance of the evidence that the defendant is charged with the serious nonfelony crime of which is a serious offense because:

- ☐ It is listed in RCW 10.77.665 as a serious offense per se.
- ☐ The court determined it is a serious offense pursuant to RCW 10.77.665. In making that determination, the court considered the following factors:
 - the charge includes an allegation that the defendant actually inflicted bodily or emotional harm on another person or, that the defendant created a reasonable apprehension of bodily harm or emotional harm to another

- The extent of the impact of the alleged offense on the basic human need for security of the citizens within the jurisdiction.
- The number and nature of related charges pending against the defendant.
- The length of potential confinement if the defendant is convicted.
- The number of potential and actual victims or persons impacted by the defendant's alleged acts.

2. Incompetency. The court finds by a preponderance that, as a result of mental disease or defect, the defendant lacks the capacity to:

☐ understand the nature of the proceedings against themselves.

☐ assist in their own defense.

The defendant is not competent to stand trial.

3. Restorability.

☐ **No Treatment Ordered.** The defendant has not undergone any competency restoration treatment.

☐ **Restoration Unlikely.** The court has determined that the defendant is unlikely to regain competency within the treatment period allowed by RCW 10.77.650.

☐ **Other:** _____

☐ **Treatment was Previously Ordered.** Defendant has undergone treatment in accordance with RCW 10.77.650 as follows (*check all that apply*):

☐ **Inpatient** competency restoration treatment.

☐ **Outpatient** competency restoration treatment.

☐ **Combined Inpatient and Outpatient** competency restoration treatment.

☐ **After receiving treatment:**

☐ The court concludes that the defendant is not likely to regain competency.

OR

☐ The maximum allowable period for treatment has ended and the defendant's competency has not been restored.

Orders:

4. Dismissal Without Prejudice. (ORDSMWO). This case is dismissed without prejudice.

5. ☐ Referral of Defendant for Evaluation Pursuant to Ch. 71.05 RCW.

The court refers the defendant for civil commitment evaluation under Ch. 71.05 RCW:

☐ **Defendant in Custody.**

The defendant is currently in custody in the _____ jail/detention facility (Jail/Detention Facility).

☐ **Evaluation at Treatment Facility.** The defendant shall be transported to the _____ evaluation and treatment facility (Treatment

Facility) for civil commitment evaluations under Ch. 71.05 RCW. The defendant is committed to the Treatment Facility for up to:

☐ 72 hours for evaluation, if the defendant previously engaged in inpatient competency restoration services for this case,

OR

☐ 120 hours for evaluation, if the defendant has not undergone competency restoration services or has engaged in outpatient competency restoration for this case

The 72 or 120 hours starts from admission to the Treatment Facility, but excludes Saturdays, Sundays, and legal holidays. The time period shall begin on the next nonholiday week day after this order is signed, and ends at *(time)* _____ a.m./ p.m. on *(date)* _____. The Jail/Detention Facility will coordinate transport of the defendant to the Treatment Facility as soon as possible.

The defendant shall be released from custody in this case upon the earlier of (a) being transported to the Treatment Facility, or (b) the expiration of the applicable time period.

☐ **Evaluation in Custody.** For the reasons below, the evaluation for purposes of Ch. 71.05 RCW shall occur as set forth in RCW 10.77.405, pursuant to a separate order of this court.

☐ The court has been advised that there are no treatment facilities that are able to admit the defendant within the time limits provided by RCW10.77.650.

☐ The defendant is subject to a jail hold from another jurisdiction such that the Jail/Detention Facility is unable to transport the defendant to the Treatment Facility within the time limits contemplated by RCW10.77.650.

☐ **Defendant on Conditional Release.**

The defendant is on conditional release. The designated crisis responder (DCR) for _____ County shall evaluate the defendant pursuant to Ch. 71.05 RCW. The evaluation shall be conducted at a location chosen by the DCR, and shall occur within 48 hours.

The defendant is released from the conditional release in this matter.

6. ☐ Release of Defendant Currently Subject to Ch. 71.05 RCW Proceedings.

The court and the parties have been informed that the defendant is currently subject to proceedings under Ch. 71.05 RCW. A further referral for evaluation is duplicative.

The court orders the immediate release of the defendant from custody on this case.

7. History of One or More Violent Acts.

☐ The defendant **does have** a history of one or more violent acts as defined in RCW 10.77.010. The defendant shall immediately surrender any concealed pistol licenses and the defendant may not possess a firearm unless the defendant's right to do so is restored by a court of record. The *Notice of Ineligibility to Possess a Firearm* is filed separately. **(ORDSMIN)**

☐ The defendant **does not have** a history of one or more violent acts. **(ORDSMWO)**

8. All other custody orders on any other cases remain unaffected by this order.

9. Other: _____

Dated: _____

Judge

Print Name: _____

Approved as to form

Approved as to form

Deputy Prosecuting Attorney
Print Name: _____
WSBA No. _____

Attorney for Defendant
Print Name: _____
WSBA No. _____